

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

In re:	)	CONSENT
Robert E. Sterling, M.D.	)	AGREEMENT
Complaint CR09-413	)	

This document is a Consent Agreement, effective when signed by all parties, regarding disciplinary action against the license to practice medicine in the State of Maine held by Robert E. Sterling, M.D. The parties to the Consent Agreement are: Robert E. Sterling, M.D. ("Dr. Sterling"), the State of Maine Board of Licensure in Medicine ("the Board") and the State of Maine Department of the Attorney General ("the Attorney General"). This Consent Agreement is entered into pursuant to 10 M.R.S. § 8003(5)(B) and 32 M.R.S. § 3282-A.

STATEMENT OF FACTS

1. Dr. Sterling has held a license to practice medicine in the State of Maine since July 13, 2009. Dr. Sterling practiced medicine at Northern Maine Medical Center, and specialized in Family Practice.
2. On July 9, 2009, Dr. Sterling entered into a Consent Agreement for Conditional Licensure with the Board. Paragraph 6(a) of the Consent Agreement for Conditional Licensure required that Dr. Sterling completely abstain from the use of Prohibited Substances, including alcohol. Paragraph 6(b) required Dr. Sterling to undergo monitoring and testing for the use of Prohibited Substances, including alcohol. Paragraphs 6 and 7 required automatic suspension of Dr. Sterling's Maine medical license in the event the Board received a report of a positive test for Prohibited Substances or a

violation of any other condition of the Consent Agreement for Conditional Licensure.

3. On September 14, 2009, the Board staff received a letter from the Maine Medical Association's Medical Professionals Health Program (MPHP), which reported that a urine sample obtained from Dr. Sterling on August 25, 2009, tested positive for Ethyl Glucuronide, a metabolite of alcohol. In addition, the MPHP reported that Dr. Sterling had admitted to using alcohol.

4. On September 14, 2009, the Board staff sent Dr. Sterling a written notice that, pursuant to the terms of the Consent Agreement for Conditional Licensure, his Maine medical license was automatically suspended based upon the report from the MPHP.

5. On September 24, 2009, the Board staff sent Dr. Sterling a letter requesting that he provide a written explanation regarding the facts and circumstances surrounding his use of alcohol.

6. On October 7, 2009, the Board staff received a written response from Dr. Sterling regarding the MPHP report. In his written response, Dr. Sterling admitted testing positive for alcohol metabolites on several occasions, and to consuming alcohol for emotional and situational reasons and for "comfort in a calming drink." Dr. Sterling also expressed his distress about disappointing his employer and apologized to the Board.

7. On or about October 8, 2009, the Board staff received written confirmation from the MPHP that on September 10, 2009, Dr. Sterling had tested positive (a second time) for Ethyl Glucuronide, a metabolite of alcohol.

8. On or about October 8, 2009, the Board staff sent Dr. Sterling a notice of hearing regarding his alleged violations of the Consent Agreement for Conditional Licensure. The adjudicatory hearing is scheduled to take place on November 10, 2009, at 1:00 p.m. at the Board office located at 161 Capitol Street, Augusta, Maine.

9. This Consent Agreement has been negotiated by Dr. Sterling and legal counsel assigned to prosecute Complaint CR09-413, Dr. Sterling's violations of the Consent Agreement for Conditional Licensure, in order to resolve the matter without an adjudicatory hearing. Absent Dr. Sterling's acceptance of this Consent Agreement by signing and dating it in front of a notary and mailing it to Maureen Lathrop, Administrative Secretary, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before October 30, 2009, the matter will be scheduled for an adjudicatory hearing. In addition, absent ratification of this proposed Consent Agreement by a majority vote of the Board on November 10, 2009, the matter will be scheduled for an adjudicatory hearing at a later date.

10. By signing this Consent Agreement, Dr. Sterling waives any and all objections to, and hereby consents to the presentation of this proposed Consent Agreement to the Board for possible ratification. Dr. Sterling waives forever any arguments of bias or otherwise against any of the Board members in the event that the Board fails to ratify this proposed Consent Agreement.

## COVENANTS

11. Dr. Sterling admits that he violated the Consent Agreement for Conditional Licensure on more than one occasion by testing positive for the presence of a metabolite of alcohol and using alcohol. Dr. Sterling admits that such conduct constitutes grounds to discipline his Maine medical license pursuant to 32 M.R.S. § 3282-A(2)(F) and 10 M.R.S. § 8003(5).

12. As discipline for the violation referred to in paragraph 11 above, Dr. Sterling agrees to the immediate, permanent and voluntary surrender of his Maine medical license.

13. Dr. Sterling waives his right to a hearing before the Board or any court regarding all facts, terms and conditions of this Consent Agreement. Dr. Sterling agrees that this Consent Agreement is a final order resolving complaint CR09-413. This Consent Agreement is not appealable and is effective until modified or rescinded by the parties hereto. This Consent Agreement cannot be amended orally. It can only be amended by a writing signed by the parties hereto and approved by the Office of Attorney General. Any decision by the Board as a result of Dr. Sterling's request to modify this Consent Agreement need not be made pursuant to a hearing and is not appealable to any court.

14. The Board and the Office of the Attorney General may communicate and cooperate regarding Dr. Sterling or any other matter relating to this Consent Agreement.

15. This Consent Agreement is a public record within the meaning of

1 M.R.S. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S. § 408.

16. This Consent Agreement constitutes adverse disciplinary action that is reportable to the National Practitioner Data Bank, the Healthcare Integrity and Protection Data Bank, and the Federation of State Medical Boards.

17. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto.

18. Dr. Sterling acknowledges by his signature hereto that he has read this Consent Agreement, that he has had an opportunity to consult with an attorney before executing this Consent Agreement, that he executed this Consent Agreement of his own free will and that he agrees to abide by all terms and conditions set forth herein.

**I, ROBERT E. STERLING, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING THIS AGREEMENT, I WAIVE CERTAIN RIGHTS, INCLUDING THE RIGHT TO A HEARING BEFORE THE BOARD. I SIGN THIS CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.**

DATED:

10/22/09

  
ROBERT E. STERLING, M.D.

STATE OF Connecticut  
Fairfield, S.S.

Personally appeared before me the above-named Robert E. Sterling, M.D., and swore to the truth of the foregoing based upon his own personal knowledge, or upon information and belief, and so far as upon information and belief, he believes it to be true.

DATED: 10/22/2009

Shama Mital  
NOTARY PUBLIC/ATTORNEY  
MY COMMISSION ENDS: \_\_\_\_\_

**SHAMA MITAL**  
Notary Public  
My Commission Expires 09/30/2010

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

DATED: 11/10/09

Sheridan R. Oldham MD  
SHERIDAN R. OLDHAM, M.D., Chairman

STATE OF MAINE DEPARTMENT  
OF THE ATTORNEY GENERAL

DATED: 11/10/09

[Signature]  
DENNIS E. SMITH  
Assistant Attorney General

Effective Date: 11/10/09



JOHN ELIAS BALDACCI  
GOVERNOR

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE  
137 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0137

SHERIDAN R. OLDHAM, M.D.  
CHAIRMAN

RANDAL C. MANNING, M.B.A.  
EXECUTIVE DIRECTOR

**CERTIFIED MAIL # 70081830000082055609**  
**FIRST CLASS MAIL**  
**RETURN RECEIPT REQUESTED**

September 14, 2009

Robert E. Sterling, M.D.  
107 Chestnut Hill Rd.  
Norwalk, CT 06851

**Re: Suspension of Maine medical license**

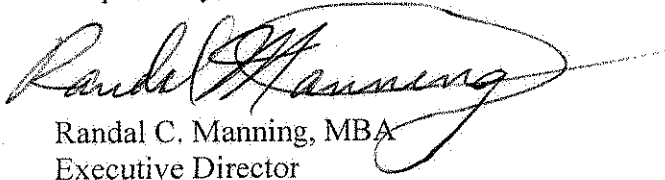
Dear Dr. Sterling:

This letter is to inform you that your license to practice medicine has been suspended, effective immediately, pursuant to section, 6(b)(vi) of your Consent Agreement dated July 9, 2009. This suspension is based on your non-compliance with the Consent Agreement.

On September 14, 2009, the Board staff received a report from Dr. David Simmons of the Maine Medical Professionals Health Program that you tested positive for Ethyl Glucuronide and metabolites of alcohol. According to the report from Dr. Simmons, you admitted consuming alcohol. Section 6(b)(vi) of the Consent Agreement provides in relevant part: *"If any urine or blood test is positive, then the result shall be the immediate, indefinite, automatic suspension of Dr. Sterling's Maine medical license, which shall continue until the Board holds a hearing."* Section 6(b)(vii) of the Consent Agreement requires that the hearing occur within 60 days or as soon thereafter as practicable. Notice of the time, date, and location of the Adjudicatory Hearing will be sent to you forthwith.

Because your license is under suspension, immediately return the license to this office at the above address.

Respectfully,



Randal C. Manning, MBA  
Executive Director

RCM/mm

Cc: Dennis E. Smith, AAG  
Elizabeth A. Oliver, ESQ.

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

In re:	)	CONSENT AGREEMENT
Robert E. Sterling, M.D.	)	FOR
Application for Medical Licensure	)	CONDITIONAL LICENSURE
	)	

This document is a Consent Agreement for Conditional Licensure, effective when signed by all parties, regarding probation and conditions imposed upon the license to practice medicine in the State of Maine issued to Robert E. Sterling, M.D. The parties to the Consent Agreement for Conditional Licensure are: Robert E. Sterling, M.D. ("Dr. Sterling"), the State of Maine Board of Licensure in Medicine ("the Board") and the State of Maine Department of the Attorney General ("the Attorney General"). This Consent Agreement is entered into pursuant to 10 M.R.S. § 8003(5)(B) and 32 M.R.S. § 3282-A.

STATEMENT OF FACTS

1. On March 30, 2009, Robert E. Sterling, M.D. applied for an active license to practice medicine in the State of Maine. Dr. Sterling's primary medical specialty is Family Medicine. On his application for licensure, Dr. Sterling disclosed that his license to practice medicine in Connecticut had been disciplined<sup>1</sup> as a result of concerns that he had abused alcohol.

2. Prior to applying for medical licensure in the State of Maine, Dr. Sterling practiced medicine in the State of Connecticut. On August 18, 2008, Dr. Sterling entered into a Consent Order (Petition No. 2008-0513-001-080) with the State of Connecticut Department of Public Health, Healthcare Systems Branch (in lieu of proceedings before the Connecticut Medical Examining Board) based upon issues of abuse and/or utilization to excess of alcohol. There were no claims of direct patient harm and/or standard of care issues directed to or against Dr. Sterling, and the Consent Order was not related to any allegation regarding Dr. Sterling's clinical competency or skill as a physician.

3. On June 9, 2009, the Board reviewed Dr. Sterling's application for medical licensure in the State of Maine, and voted to issue him a license pursuant to a Consent Agreement for Conditional Licensure.

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<sup>1</sup> Dr. Sterling reported that his Connecticut medical license had been suspended for two months, and that he had entered into a Consent Order that imposed probation and conditions on his license, including a prohibition against his having a "private practice."

4. By signing this Consent Agreement, Dr. Sterling waives, in his personal capacity and through legal counsel, any and all objections to, and hereby consents to allow the Board's legal counsel to present this proposed Consent Agreement to the Board for possible ratification. Dr. Sterling waives, in his personal capacity and through legal counsel, forever any arguments of bias or otherwise against any of the Board members in the event that the Board fails to ratify this proposed Consent Agreement for Conditional Licensure.

#### COVENANTS

5. Dr. Sterling admits the facts set forth above. Dr. Sterling also admits that based upon these facts the Board could reasonably conclude that he engaged in habitual substance abuse that was "foreseeably likely to result in his performing services in a manner that endangers the health or safety of patients" and that this conclusion could constitute habitual substance abuse and unprofessional conduct and grounds to deny his application for a Maine medical license pursuant to 32 M.R.S. § 3271 and 32 M.R.S. § 3282-A(2)(B) & (F).

#### CONDITIONS OF LICENSURE

6. In light of the admissions in paragraph 5 above, as well as Dr. Sterling's efforts and commitment to refrain from the use of alcohol and his continuing treatment, the Board agrees to issue and Dr. Sterling agrees to accept a probationary Maine medical license with the following terms and conditions, which shall remain in place for a period of five (5) years following the execution<sup>2</sup> of this Consent Agreement for Conditional Licensure:

a. ABSTINENCE. Dr. Sterling agrees that, following the execution of this Consent Agreement for Conditional Licensure, he shall completely abstain from the use of any and all Prohibited Substances. "Prohibited Substances" as used throughout this Consent Agreement for Conditional Licensure shall mean: benzodiazepines; sedatives; hypnotics or similar drugs; opiates; alcohol; cocaine; fentanyl; mood, consciousness or mind-altering substances, whether illicit or not; and all drugs which are not legally dispensed to or prescribed for him for legitimate therapeutic purposes by a licensed healthcare professional authorized to prescribe medications. Dr. Sterling shall inform said licensed healthcare professional of his substance abuse history. In the event that Dr. Sterling develops a medical condition that requires treatment utilizing controlled substances, legend drugs, or alcohol in any form, Dr. Sterling shall notify the Board within ten (10) days and, upon

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<sup>2</sup> For purposes of this Consent Agreement the term "execution" means the date on which the final signature is affixed to the Consent Agreement.

request, provide such written documentation of the treatment as the Board deems necessary. In addition, Dr. Sterling shall notify each of his healthcare professionals of all medications prescribed for him by any and all other healthcare professionals.

i. Future Use of Prohibited Substances Shall Result in Loss of Licensure. Dr. Sterling agrees and understands that any reliable evidence of use at any time in the future, whether in Maine or elsewhere, of any Prohibited Substance, including but not limited to alcohol, shall constitute a violation of this Consent Agreement, which **SHALL RESULT IN THE IMMEDIATE, INDEFINITE AUTOMATIC SUSPENSION OF LICENSURE, AND PROOF OF USE MAY RESULT IN PERMANENT REVOCATION OF LICENSURE.**

b. SUBSTANCE MONITORING. Dr. Sterling understands and agrees that he may, for the duration of the five (5) year probation, be required undergo some level of substance monitoring to test whether he has used a Prohibited Substance. The monitoring shall be through urinalysis testing and/or blood testing, and any other reliable method which may later be developed and approved by the Board. Dr. Sterling irrevocably agrees that the Board and the Maine Department of Attorney General will have full access to all test data and reports. Dr. Sterling shall execute any and all releases necessary for the Board and/or the Attorney General to have full access to all data and reports pertaining to his substance monitoring.

i. Supervising Physician. Dr. Sterling shall propose a Supervising Physician (the "Supervising Physician"), who shall be approved by the Board who shall have Dr. Sterling provide urine samples for testing for the presence of Prohibited Substances. Under no circumstances shall Dr. Sterling fail to appear and/or provide a urine sample for testing as required by this Consent Agreement for Conditional Licensure.

ii. Process. All urine and/or blood samples shall be handled through legal chain of custody methods. All samples provided shall be analyzed by a certified laboratory, which regularly handles drug monitoring tests. All samples shall be tested for the presence of Prohibited Substances, specifically including but not limited to alcohol.

iii. Frequency of Urine Testing. It is Dr. Sterling's obligation to ensure that all the samples are given and tests occur as specified in this Consent Agreement for Conditional Licensure. Testing shall be randomly scheduled. Notwithstanding any other provision of this Consent Agreement for Conditional Licensure, the Board, the Supervising Physician, or the Board's agent may request Dr. Sterling to submit to testing at any time. Failure to maintain this schedule or the random nature of the tests shall be cause for suspension, non-renewal or revocation of Dr. Sterling's Maine

medical license, unless proof of genuine emergent medical circumstances (for Dr. Sterling or a patient) exist which warrant less serious disciplinary actions being taken by the Board. Subject to the provisions of paragraph 6(g) of this Consent Agreement, Dr. Sterling shall provide urine samples for testing for the presence of Prohibited Substances at least once a week. Dr. Sterling shall submit to testing on a more frequent basis if requested to do so by his Supervising Physician or the Board.

iv. Reporting Test Results. It is Dr. Sterling's responsibility to ensure that all test results are reported promptly to the Board.

(a). Immediate Report of Positive Test Results. Any test result evidencing any level of a Prohibited Substance, whether by urine or other sample, shall be reported to the Board by telephone and in writing within 24 hours or as soon thereafter as possible.

(b). Reporting Negative Test Results. Written reports of all tests shall be sent to the Board monthly, together with an explanation of the dates and times samples were provided and tests made, the type(s) of tests made, and the substances tested for (together with detectable levels tested for), and the test results. Dr. Sterling shall ensure that all reports are made to the Board in a timely fashion.

(c). Confidentiality Waived. With regard to the Board and its agents and any process to be pursued by the Board, Dr. Sterling hereby waives all claims of confidentiality and privilege with respect to all tests taken and test results pursuant to this Consent Agreement for Conditional Licensure. Dr. Sterling shall execute any and all releases in order for the Board to obtain access to and copies of all urine test results.

v. Rebuttable Presumption Raised by Positive Test. It is agreed and understood that a test evidencing the presence of any Prohibited Substance shall raise a rebuttable presumption that such substance was in fact used by Dr. Sterling. Such a positive test result shall alone be sufficient to prove the use of the Prohibited Substance by Dr. Sterling. Dr. Sterling further agrees that the result of the test may be admitted into evidence in any proceeding regarding his Maine medical license, whether before the Board or before a Court of competent jurisdiction. Dr. Sterling is hereby advised that the ingestion of poppy seeds, mouthwash and over the counter cough or cold medicines or remedies has from time to time been raised as a defense to a positive screen result for morphine, opiates and/or alcohol. For that reason, Dr. Sterling agrees to refrain from ingesting poppy seeds in any food substances, mouthwash and over the counter cough or cold medicines or remedies during the period of probation. In the event that Dr. Sterling has a positive screen for morphine, opiates and/or alcohol, Dr. Sterling agrees that the ingestion of poppy seeds and/or mouthwash and/or over the counter

cough or cold medicines shall not constitute a defense to such a positive screen.

vi. Immediate, Indefinite, Automatic Suspension for Positive Test. If any urine or blood test is positive (i.e., in any manner evidences any use of any Prohibited Substance), then the result shall be the immediate, indefinite, automatic suspension of Dr. Sterling's Maine medical license, which shall continue until the Board holds a hearing on the matter, unless the Board, or the Board Secretary and the Department of Attorney General, earlier determine that the report is without merit. The suspension shall begin the moment Dr. Sterling first learns of a positive test or report of a positive test to the Board, whether from the Supervising Physician or his designee, from the Board or from any other source in writing, orally or by any other means. This shall include non-confirmed, positive tests.

vii. Board Hearing to Determine if Dr. Sterling Used Any Prohibited Substance. After receiving a positive report evidencing use by Dr. Sterling of any Prohibited Substance, the Board shall investigate the situation, including demanding a response from Dr. Sterling. The Board will hold a hearing within 60 days of the automatic suspension or as soon thereafter as practicable (unless both Dr. Sterling and the Board agree to hold the hearing later) and it shall be held pursuant to the Maine Administrative Procedure Act.

viii. Failure to Maintain Sampling Schedule or Failure to Appear or to Provide Sample. Failure by Dr. Sterling: to maintain the sampling schedule; to appear when demanded to provide a sample; or to provide samples upon being demanded to do so shall be dealt with as follows:

(a). Report. If Dr. Sterling fails to appear to provide a sample, fails to maintain the sampling/testing schedule, or fails to provide a urine sample, then the Supervising Physician and Dr. Sterling must telephone the Board as soon as possible and send to the Board a written report of such failure within 48 hours.

(b). Second Opportunity to Provide Urine Sample. If Dr. Sterling appears when scheduled or ordered, but fails to provide an adequate sample, then with regard to urine, after accurate notation of any and all substances consumed (no substance shall be consumed which might affect the accuracy of the tests to be performed), a second opportunity to provide a urine sample shall be given after a reasonable time. A repeat failure or any refusal shall result in an immediate, indefinite suspension of medical licensure. The suspension shall begin the moment of the occurrence.

(c). Suspension. An immediate, indefinite suspension of licensure shall result from any failure by Dr. Sterling to comply with the mandated schedule of samples, failing to appear to provide a sample, or failing to provide a urine sample after given a second opportunity. The suspension shall begin the moment Dr. Sterling actually learns a report has been made or sent to the Board.

(d). Meeting with Board. Both Dr. Sterling and the Supervising Physician shall, at the discretion of the Board, be required to appear before the Board regarding this situation at its next regularly scheduled Board meeting, unless the next meeting is to be held within 15 days of the suspension, in which case they may be scheduled to appear at the subsequent regularly scheduled Board meeting.

(e). Board Action. The Board may order Dr. Sterling's Maine medical license reinstated or, if appropriate, may continue the suspension and may set the matter for hearing. The Board shall attempt to hold a hearing within 60 days of the automatic suspension, or as soon thereafter as practicable, at which time it may take such action as it deems appropriate, including without limitation, reinstatement, fines, probation, suspension, non-renewal and revocation.

ix. Amendment of Testing Provisions. After one (1) year of successful compliance with the terms and conditions of this Consent Agreement for Conditional Licensure, Dr. Sterling may file a written application with the Board to amend the testing conditions and/or frequency of urine screens. Upon written application by Dr. Sterling to the Board, the Board may amend the above agreed conditions for testing and/or the testing schedule. Amendment of the testing conditions shall be in the sole discretion of the Board and shall be based upon such information as the Board deems pertinent. A decision regarding the amendment of testing provisions may be made by the Board, in its sole discretion, with or without providing a hearing. Any decision by the Board regarding a request to amend the testing conditions is not appealable. The Board can propose Amendment(s), which may or may not be agreed to by Dr. Sterling.

x. Increasing Testing. For good cause shown (i.e., questionable reports or problems with providing samples), the Board can, in its sole discretion, without hearing, unilaterally increase the frequency of testing to the highest levels contemplated by this Consent Agreement for Conditional Licensure, and may also add an additional four random tests per month. Any decision made by the Board pursuant to this paragraph does not require a hearing and is not appealable.

c. PROFESSIONAL MANAGEMENT.

i. Substance Abuse Treatment. Within thirty (30) days following the execution of this Consent Agreement for Conditional Licensure, Dr. Sterling shall submit for Board approval the name of a licensed individual or agency in the treatment of substance abuse with whom Dr. Sterling shall consult and counsel for the purpose of working on all issues pertaining to his substance abuse issues, including Dr. Sterling's compliance with this Consent Agreement, which consultations shall be at least twice monthly following the execution of this Consent Agreement.

ii. Prior Evaluation and Treatment Records. The Board and Dr. Sterling agree that Dr. Sterling shall execute all releases necessary to permit the transmission and disclosure of all records from previous treatment providers to the Board-approved treatment provider(s).

iii. Communication of Treatment Providers. The Board and Dr. Sterling agree that all treatment providers involved in his care shall have full communication allowed among themselves, any prior treatment providers and, when requested, with the Board or its agent(s). Dr. Sterling waives any privileges concerning such information, reports, records, and communications among his treatment providers and the Board.

iv. Amendment of Aftercare Treatment Requirements. After two (2) years of successful compliance with the terms and conditions of this Consent Agreement for Conditional Licensure, Dr. Sterling may file a written application with the Board to amend his substance abuse treatment. The Board shall retain the sole discretion, without hearing, to grant or deny such application. Dr. Sterling acknowledges that any decision by the Board concerning this issue is not appealable.

v. Change of Treatment Provider(s). If Dr. Sterling desires to change his treatment provider(s), then he shall make written application to the Board, including among other things a letter regarding his reasons for requesting such change(s) and separate letters from the current treatment provider(s) and the proposed new treatment provider(s) relative to their understanding of the reasons for this request and, to the extent applicable, any concerns they may have. The Board shall retain the sole discretion to grant or deny such application without hearing. Dr. Sterling acknowledges that any decision by the Board concerning this issue is not appealable. If the request is denied, nothing precludes Dr. Sterling from proposing another treatment provider for approval. In requesting a change of treatment provider, Dr. Sterling understands that the Board may inquire into any issues it deems pertinent with any person, including, without limitation, the current treatment provider(s).

vii. Reports from Treatment Providers. Commencing one month following the execution of this Consent Agreement for Conditional Licensure, and continuing indefinitely thereafter, within a month after every session, Dr. Sterling shall ensure that the Board-approved treatment provider(s) submit(s) to the Board a written report regarding: Dr. Sterling's compliance with his schedule of meetings; Dr. Sterling's ability to continue practicing medicine in an alcohol and substance free state safely and competently; and the prognosis of Dr. Sterling's continued recovery. In addition, the treatment providers shall immediately notify the Board in writing whenever: (1) in his/her professional judgment, Dr. Sterling poses a potential danger to the health, safety and welfare of patients; or (2) Dr. Sterling terminates treatment or is non-compliant with the treatment plan. Dr. Sterling hereby waives any privileges concerning such information, reports, records and disclosures to the Board.

viii. Board Investigation. At any time the Board may deem appropriate, the Board or its agent may contact Dr. Sterling and/or the Board-approved treatment providers to obtain further information relative to Dr. Sterling. In addition, if the Board deems it appropriate, it may directly contact the treatment providers regarding any issues concerning Dr. Sterling's treatment. In complying with this requirement, Dr. Sterling waives any privileges concerning such information, reports, records and disclosures to the Board. Dr. Sterling shall execute any and all releases necessary to enable the Board and/or the Attorney General to communicate directly with his treatment provider(s) and to obtain copies of any and all notes, records, and documentation concerning his treatment.

d. PROFESSIONAL OVERSIGHT.

i. Clinical Setting. During the period of probation, Dr. Sterling shall practice medicine in an office and practices that includes other physicians. Prior to engaging in the active practice of medicine pursuant to this Consent Agreement, Dr. Sterling must have a Board-approved practice location. In complying with this requirement, Dr. Sterling shall submit to the Board for its approval any proposed practice location(s) and settings, which locations/settings the Board has the sole discretion to approve or deny.

ii. Physician Monitor. Prior to engaging in the active practice of medicine pursuant to this Consent Agreement, Dr. Sterling must have a Board-approved practice monitor who shall monitor his medical practice. In complying with this requirement, Dr. Sterling shall submit to the Board for its approval a practice monitor, which the Board has the sole discretion to approve or deny. The monitoring physician must be in direct contact with Dr. Sterling and observe him within his medical practice at least once a week, and inform the Board if Dr. Sterling demonstrates any issues with regard to isolation, inappropriate boundaries or decision-making, ability to

concentrate, absenteeism, alcohol or drug abuse, incompetence, unprofessionalism or any other concerns. The monitoring physician shall report such information to the Board by telephone and in writing within 24 hours or as soon thereafter as possible. Dr. Sterling understands that the monitoring physician will be an agent of the Board pursuant to Title 24 M.R.S. § 2511. Dr. Sterling shall permit the monitoring physician full access to his medical practice, including but not limited to all patient information.

e. SELF-HELP GROUP MEETINGS.

i. Attendance at AA and NA. Dr. Sterling agrees to attend Alcoholics Anonymous ("AA") and/or Narcotic Anonymous ("NA") or another non-faith-based self-help group meeting approved by the Board a minimum of twice per week from the effective date of this Consent Agreement for Conditional Licensure. After two (2) years of successful compliance with the terms and conditions of this Consent Agreement for Conditional Licensure, Dr. Sterling may file a written request with the Board to amend the minimum number of AA, NA or impaired professional self-help group meetings he must attend. The Board shall retain the sole discretion, without hearing, to grant or deny such application. Dr. Sterling acknowledges that any decision by the Board concerning this issue is not appealable.

ii. Impaired Physicians Self-Help Group. Dr. Sterling agrees that he shall attend self-help group meetings of an impaired medical professional group (i.e. Caduceus), on a regular basis for the term of this Consent Agreement for Conditional Licensure. Meetings of the impaired professional self-help groups may be substituted on a one-for-one basis with meetings of AA or NA.

iii. Reports of Attendance. Dr. Sterling shall submit a signed, written quarterly report of his attendance at AA, NA or impaired professional self-help group meetings to the Board beginning three months after the execution of this Consent Agreement for Conditional Licensure. Any instances of failure to attend the required numbers of meetings shall be noted, together with specific explanation detailing reasons.

iv. Failure to Meet This Requirement. It is the parties' understanding that, periodically, reasonable explanations may exist for occasionally missing a meeting; however, unexcused continuous or repeated failures to comply with the requirements of this section of the for Conditional Licensure shall constitute a violation of the Consent Agreement which, after hearing before the Board, can result in licensure discipline, including without limitation a fine, suspension, non-renewal, or revocation of Dr. Sterling's conditional Maine medical license.

f. REPORT OF ARREST. In the event that Dr. Sterling is arrested for any crime during the five (5) year probation of his medical license, he shall notify the Board of the arrest within fifteen (15) days of the arrest. In complying with this provision, Dr. Sterling shall provide the Board with the date of arrest and the identity of the arresting agency.

g. MAINTENANCE OF OBLIGATIONS WHEN AWAY FROM MAINE OR HOME.

i. General. Dr. Sterling agrees to maintain his obligations regarding substance monitoring and self-help group meetings at all times, including times when he is away from home but within the continental limits of the United States. Dr. Sterling will notify the Director of the Maine Medical Professionals Health Program sufficiently in advance of travel away from Maine or home to make whatever arrangements the Director deems appropriate for monitoring, testing and self-help group meetings before he leaves. It is the parties' understanding that if Dr. Sterling has been compliant with the terms of this Consent Agreement, the Director may make alternate arrangements for monitoring, or waive the monitoring and testing requirements while Dr. Sterling is away from Maine or home for no more than fourteen (14) days. Dr. Sterling shall ensure that any such waiver or alternate arrangements shall be noted in writing and sent to the Board prior to his travel away from Maine or home. In all other circumstances, it shall be Dr. Sterling's obligation to ensure that arrangements are made consistent with this Consent Agreement in such other location(s) to ensure the continuation and satisfaction of his obligations under this Consent Agreement.

ii. Failure to Comply. Absent a waiver of the monitoring and testing requirements and/or approval of alternative arrangements by the Director of the Maine Medical Professionals Health Program as set forth above, any failure by Dr. Sterling to meet the conditions of the Consent Agreement for Conditional Licensure outside of Maine shall constitute a violation of this Consent Agreement, and may result in the immediate suspension by the Board of Dr. Sterling's Maine medical license pending hearing, and, following hearing, other sanctions as permitted by law including but not limited to suspension, modification, or revocation of licensure.

h. INVOLVEMENT IN THE MAINE MEDICAL PROFESSIONALS HEALTH PROGRAM.

Dr. Sterling shall enter into a contract with the Maine Medical Professionals Health Program and fully participate in that program as long as this Consent Agreement for Conditional Licensure remains in force.

i. MAINTAINENCE OF LICENSE.

Dr. Sterling shall be required to maintain his Maine license to practice medicine for as long as this Consent Agreement for Conditional Licensure is in effect. In the event that Dr. Sterling applies for licensure in other jurisdictions during the term of this Consent Agreement, Dr. Sterling shall notify said jurisdiction of the existence of this Consent Agreement for Conditional Licensure.

j. WAIVER OF CONFIDENTIALITY AND RELEASE OF RECORDS.

Dr. Sterling agrees and understands that the Board and the Department of Attorney General shall have complete access to his present and future personal medical and counseling records regarding chemical dependency and mental health issues and to all otherwise confidential data pertaining to treatment or monitoring of Dr. Sterling for substance abuse and mental health issues. Dr. Sterling waives any privileges concerning such information, reports, or records, and agrees to execute any and all releases necessary to permit the Board access to such information. All releases must, in addition to waiving any relevant State law privileges or immunities, provide the Board with access to all material covered by 42 C.F.R., Part 2. In the event that the releases are not sufficient to obtain access to any information which the Board considers relevant, Dr. Sterling agrees to personally obtain such information and furnish it to the Board, to the extent permitted by law.

7. SANCTION FOR VIOLATION OF LICENSE CONDITIONS.

a. Automatic Suspension. Any reliable oral or written report to the Board of violation(s) of the conditions of licensure as described above shall result in the immediate, indefinite and automatic suspension of Dr. Sterling's Maine medical license. The automatic suspension of Dr. Sterling's Maine medical license shall become effective at the time that he receives actual notice from the Board that a report of violation(s) has been made. Actual notice can be provided by telephone, in person, in writing, by another means or any combination of the above-referenced means. The indefinite, automatic suspension shall continue until the Board holds a hearing on the matter, unless the Board earlier determines that the report is without merit or decides that no further sanction is warranted.

b. Continued Suspension; Other Sanctions. Dr. Sterling's indefinite automatic suspension shall continue for such time until the Board holds a hearing and reaches a decision. The Board will hold a hearing within 60 days of the automatic suspension or as soon thereafter as practicable (unless both Dr. Sterling and the Board agree to hold the hearing later) and shall be held pursuant to the Maine Administrative Procedure Act. The Board may impose such other discipline, including without limitation, fines, further

suspension, probation, non-renewal or revocation of licensure, as the Board after hearing deems appropriate.

c. General Acknowledgment. Dr. Sterling acknowledges that, pursuant to Title 10 M.R.S. § 8003(5)(B), his failure to comply with any of the terms or conditions of this Consent Agreement for Conditional Licensure shall constitute grounds for disciplinary action against his Maine medical license, including but not limited to an order, after hearing, modifying, suspending, or revoking his license.

8. DESIGNATED COPY OF CONSENT AGREEMENT.

Dr. Sterling shall have his supervising physician, monitoring physician and all treatment providers read, date, and sign a copy of the Consent Agreement for Conditional Licensure (the "Designated Copy"). Dr. Sterling shall retain a copy of the Consent Agreement for Conditional Licensure signed by all of the aforementioned individuals at his office and shall produce it upon request of the Board or its agent(s). A copy of the signature page shall be made and sent to the Board. Dr. Sterling agrees that if new individuals assume the roles set forth in this Consent Agreement during the existence of this Consent Agreement, such individuals shall also read, date and sign the Consent Agreement.

Dr. Sterling shall provide a copy of this Consent Agreement to any hospital or medical practice with whom he becomes affiliated.

9. BOARD'S JURISDICTION.

Dr. Sterling acknowledges that the Board has jurisdiction over his license. Dr. Sterling understands that, at the time the Board is agreeing to issue him this Conditional, Modified License, the Board has the statutory jurisdiction to revoke licenses. Pursuant to 10 M.R.S. § 8003(5)B, in consideration for the Board's issuing Dr. Sterling his Maine medical license pursuant to this Consent Agreement for Conditional Licensure, he agrees that, regarding any alleged violation of this Consent Agreement, the Board is granted jurisdiction to revoke his license or take such other disciplinary action as is available to the Courts, following an adjudicatory hearing conducted in accordance with the Maine Administrative Procedure Act. Such revocation by the Board shall be deemed final agency action appealable only to the Superior Court pursuant to 5 M.R.S. § 11001, and *not* be reviewable de novo in the District Court pursuant to 10 M.R.S. § 8003(5)F.

10. MISCELLANEOUS PROVISIONS.

a. Notice. Unless otherwise specified in this Consent Agreement for Conditional Licensure, written notice shall be deemed served upon mailing by first class mail, postage prepaid.

(i). Notice to the Board:

State of Maine Board of Licensure in Medicine  
Attention: Board Investigator  
137 State House Station  
Augusta, Maine 04333-0137  
Telephone: (207) 287-3601

(ii). Notice to the Licensee:

Robert E. Sterling, M.D.  
56 Dudley Street  
Apartment 1  
Presque Isle, ME 04769

b. Address Change. If Dr. Sterling changes jobs, moves his residence or practice, changes telephone numbers at work or at home, or secures privileges at a hospital, he shall provide written notice to the Board within ten (10) days of any such change. In addition, Dr. Sterling shall notify the Board of any attempts to seek licensure in another jurisdiction, and shall disclose to the licensing authority in such jurisdiction his status with this Board.

c. Costs. All costs incurred in performance of the Modifications and Conditions of this Consent Agreement for Conditional Licensure shall be borne by Dr. Sterling. If a violation of this Consent Agreement is proven to have occurred, regardless of the sanctions imposed, the Board may require Dr. Sterling to reimburse the Board for all costs and attorney's fees incurred in proving such violation.

d. Hearings. Unless otherwise specified, hearings shall be held consistent with the Maine Administrative Procedure Act.

e. Severance. If any clause of this Consent Agreement for Conditional Licensure is deemed illegal or invalid, then that clause shall be deemed severed from this Consent Agreement.

11. AMENDMENT OF CONSENT AGREEMENT FOR CONDITIONAL LICENSURE.

Dr. Sterling waives his right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement for Conditional Licensure. Dr. Sterling agrees that this Consent Agreement for Conditional Licensure is a final order resolving his application for a Maine medical license. This Consent Agreement for Conditional Licensure is not appealable and is effective until modified or rescinded by the parties hereto. This Consent Agreement for Conditional Licensure cannot be amended orally. It can only be amended by a writing signed by the parties hereto and approved by the Office of Attorney General. Requests for amendments to this Consent Agreement for Conditional Licensure by Dr. Sterling shall be made in writing and submitted to the Board. Dr. Sterling may, at reasonable intervals, petition the Board for amendment of the terms and conditions of this Consent Agreement for Conditional Licensure. Upon making such a petition, Dr. Sterling shall bear the burden of demonstrating that the Board should amend the Consent Agreement. The Board shall have the sole discretion to: (a) deny Dr. Sterling's petition; (b) grant Dr. Sterling's petition; and/or (c) grant Dr. Sterling's petition in part as it deems appropriate to ensure the protection of the public. Any decision by the Board as a result of Dr. Sterling's request to modify this Consent Agreement for Conditional Licensure need not be made pursuant to a hearing and is not appealable to any court.

12. COMMUNICATIONS. The Board and the Attorney General may communicate and cooperate regarding Dr. Sterling's practice or any other matter relating to this Consent Agreement.

13. PUBLIC RECORD. This Consent Agreement for Conditional Licensure is a public record within the meaning of 1 M.R.S. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S. § 408. Dr. Sterling understands that this Consent Agreement for Conditional Licensure shall be reported to the National Practitioner Data Bank (NPDB), the Healthcare Integrity and Protection Data Bank (HIPDB), and the Federation of State Medical Boards (FSMB).

14. ADVICE OF COUNSEL. Dr. Sterling acknowledges that he has a right to be represented by an attorney at his own cost concerning the negotiation of this Consent Agreement for Conditional Licensure.

15. WAIVER OF RIGHT TO APPEAL CONSENT AGREEMENT FOR CONDITIONAL LICENSURE.

Dr. Sterling waives his right to a hearing before the Board or any court regarding all facts, terms and conditions of this Consent Agreement for Conditional Licensure. Dr. Sterling agrees that this Consent Agreement for

Conditional Licensure is a final order resolving his application for a Maine medical license now pending before the Board. This Consent Agreement for Conditional Licensure is not appealable and is effective until modified or rescinded in writing by the parties hereto.

**I, ROBERT E. STERLING, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT FOR CONDITIONAL LICENSURE AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING THIS CONSENT AGREEMENT, I WAIVE CERTAIN RIGHTS, INCLUDING THE RIGHT TO A HEARING BEFORE THE BOARD. I SIGN THIS CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.**

DATED: July 2, 2009

*Robert E. Sterling M.D.*  
ROBERT E. STERLING, M.D.

STATE OF Maine

*Robert E. Sterling M.D.*  
7/6/09

074-38 -3096, S.S. #?

Personally appeared before me the above-named Robert E. Sterling, M.D., and swore to the truth of the foregoing based upon his own personal knowledge, or upon information and belief, and so far as upon information and belief, he believes it to be true.

DATED: July 6, 2009

*Jennifer Wilson*  
NOTARY PUBLIC/ATTORNEY  
MY COMMISSION ENDS: June 7, 2014


DATED: July 7, 2009

*Elizabeth A. Olivier*  
ELIZABETH A. OLIVIER, ESQ.  
ATTORNEY FOR ROBERT STERLING,  
M.D.

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

DATED:

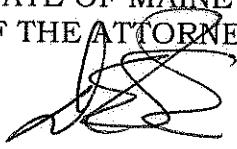
7/9/09

  
GARY R. HATFIELD, M.D., Acting  
Chairman

STATE OF MAINE DEPARTMENT  
OF THE ATTORNEY GENERAL

DATED:

7/8/09

  
DENNIS E. SMITH  
Assistant Attorney General

Effective Date: